



CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

## New Jersey Office of the Attorney General

Division of Consumer Affairs  
State Board of Professional Engineers and Land Surveyors  
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October 23, 2015

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### Certified and Regular Mail

7011 2000 0002 4596 3800

John Toto, P.E.  
236 Middle Drive  
Toms River, NJ 08753

**Filed by the Board of Professional  
Engineers and Land Surveyors on  
Date November 6, 2015**

RE: I/M/O John Toto, P.E.  
Complaint No. 101504

### Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Toto:

This letter is to advise you that the New Jersey State Board of Professional Engineers and Land Surveyors (hereinafter the "Board") has had an opportunity to review information concerning your professional conduct in connection with the above captioned complaint.

More specifically, you were hired by a pile contractor who was contracted to install piles for properties located in New Jersey. Evidence and testimony reveal that you, and/or an employee or subordinate under your direct supervision, did not observe the installation of all of the piles. Upon completion of the installation, you were provided with a pile log prepared by the pile contractor. Thereafter, based upon your reliance on the accuracy of the information in that pile log, you certified that the load bearing capacity of the piles meets or exceeds the design load.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you are in violation of:

1. N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-8.1(e) in that you affixed your signature and/or seal to the above pile log without personal observation of the installation of all of the piles by you and/or an employee or subordinate under your direct supervision.

As a result of the foregoing, the Board has preliminarily determined that the above violation is sufficient to warrant the initiation of formal proceedings against you. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in an attempt to avoid the initiation of more formal proceedings if you consent to the following terms:

1. Agree to a formal reprimand upon your signing of the acknowledgment at the bottom of this letter in connection with the above violation.

In making a determination, you should know that pursuant to N.J.S.A. 45:1-25 any person who engages in conduct which is in violation of any provision of the statutes and regulations administered by the Board shall, in addition to any other sanctions provided by statute, be liable for a civil penalty of not more than \$10,000.00 for the first violation and not more than \$20,000.00 for the second and each subsequent violation. However, in an effort to resolve this matter amicably, the Board offers to settle on the terms stated above. If you are willing to resolve this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter and returning it to the Board office within 15 days. In such event, this letter shall be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of formal proceedings. In such event, you will be afforded an opportunity to defend against the alleged violations. You are advised, however, that in the event formal charges are filed, you may be assessed civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts herein or any additional facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Michelle Albertson, who may be reached at (973) 648-7297.

If you elect to settle this matter, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this

letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer shall be considered withdrawn and the matter will be referred to the Attorney General's Office for the initiation of formal proceedings.

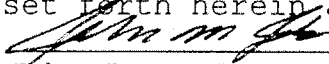
NEW JERSEY STATE BOARD OF PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS

By: 

KARL W. REIDEL  
Executive Director

cc: B. Michelle Albertson,  
Deputy Attorney General

ACKNOWLEDGMENT: I, John Toto, P.E., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record and that this letter is a public document. I agree to a formal reprimand for the violation set forth herein above.

  
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John Toto, P.E.

Dated: 11/2/2015